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CAR THIEVES: SENTENCING PATTERNS

IN MASSACHUSETTS (1975-1978)

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JUL 12 1983

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August 1, 1980

803/20

Acknowledgements

The authors would like to extend their gratitude to Katya Riasanovsky, a student intern from Wellesley College who was of great assistance in the compilation of the data for this study.

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I. Introduction

The Commonwealth of Massachusetts has acquired a notorious nationwide reputation for its runaway rate of automobile theft. While the incidence of the crime is high, the frequency of arrests is low and the rate of convictions lower still.

The Uniform Crime Reports, 1978, supports this in its findings of offenses reported to law enforcement agencies. Massachusetts' inconsistency with other states is made obvious through the rate of reported offenses per 100,000 population. With a population of 5,700,000 Massachusetts' rate in 1978 was 1095 stolen cars reported, while, North Carolina, the state with approximately the same number of people (5,500,000) had a rate of 201. California with four times the population (22,000,000) had a rate almost one-half that of Massachusetts at 691 and the total United States population of 218,000,000 had an overall rate of only 454.

In response to the disproportionate rate of auto theft, the current state administration established a Governor's Task Force on Automobile Theft to investigate the existing situation and to propose viable solutions. New legislation (Chap. 463 of the Acts of 1980) was signed by the Governor on July 10, 1980 which provides that the sentence imposed upon a person convicted of stealing a motor vehicle for a second or subsequent offense shall not be reduced to less than one year imprisonment. The findings in this study have relevance as base line data for a future assessment of the impact of this new legislation.

Proving intent to permanently deprive the owner of the automobile is crucial to obtaining a conviction for larceny of a motor vehicle. Since specific criteria do not exist to distinguish this from use of a motor vehicle without authority, (that is, borrowing a car for a "joyride"), a low rate for larceny of a motor vehicle may be attributed to this ambiguity.

With a sample of 459 defendants from 1975 to 1978, this study analyzed the patterns of sentencing for larceny of a motor vehicle and use of a motor vehicle without authority. The data studied here was extracted from a larger random sample examining sentencing patterns in Massachusetts.

As the Office of the Commissioner of Probation is a repository for all criminal and delinquency records over the entire Commonwealth, its six million records dating back to 1924 serve as a unique information source.

II. Method

The sample of 459 cases for this report was selected from a larger sample of 5000 records of convictions. The larger sample was randomly selected from the Probation Central File, and included a wide range of offenses.

Larceny of a motor vehicle and use of a motor vehicle without authority were examined in an effort to point out significant patterns relating to age and sex of defendant, lengths of sentences and effects of prior convictions and simultaneous offenses on sentencing.

The age groups for this study were:

juveniles	under 17 years of age
young adults	17-25 years
adults	26 and over

Incarceration as a sentence included houses of correction, Massachusetts Correctional Institutions (MCI), county jails and the Department of Youth Services (DYS).

Probation consisted of straight probation and cases continued without a finding. The term "supervision in the community" included probation, cases continued without a finding, and suspended sentences.

Throughout the report, where the term "stolen car offenses" was used, this referred to both larceny of a motor vehicle and use of a motor vehicle without authority.

III. Research Findings

This study examines the patterns of sentencing for larceny of a motor vehicle and use of a motor vehicle without authority and discusses related variables.

Of the entire sample (n=459) use of a motor vehicle without authority represented more cases (n=311) at 67.76 percent than did larceny of a motor vehicle (n=148) at 32.24 percent. This disparity created by the overrepresentation of use of a motor vehicle without authority reinforces the low conviction rate due to difficulty in proving intent to permanently deprive in addition to other discretionary issues.

The sample contained 428 males (93.25%) and 31 females (6.75%).

A division by age groups showed there were 119 juveniles (8-16 years) which was 25.19 percent of the total, 292 young adults (17-25 yrs.) or 63.62 percent and 48 adults or 10.46 percent.

Distribution by Age

While representation among convicted persons was greater for all age groups for use of a motor vehicle without authority (67.76%) than for larceny of a motor vehicle (32.24%), juveniles (8-16 yrs.) showed an overrepresentation for use of a motor vehicle without authority (76.47%) and less than the overall sample for larceny of a motor vehicle (23.53%).

Also, Table 1 shows that young adults (17-25 yrs.) were consistent with the total figures for use of a motor vehicle without authority (65.75%) and larceny of a motor vehicle (34.25%).

The older adults (26+), as opposed to the juveniles, had a higher rate of larceny of a motor vehicle (41.67%) and a lower representation among convicted persons for use of a motor vehicle without authority (58.33%) than the whole.

Table 1: Age Groups by Offense

	8-16 yrs.	17-25 yrs.	26+ yrs.	Total
Larceny of a Motor Vehicle	(28) 23.53%	(100) 34.25%	(20) 41.67%	(148) 32.24%
Use of a Motor Vehicle Without Authority	(91) 76.47%	(192) 65.75%	(28) 58.33%	(311) 67.76%
Combined	(119) 100%	(292) 100%	(48) 100%	(459) 100%

Distribution by Sex

An overview of male and female distribution in the sample showed men to account for a greater proportion of larceny of a motor vehicle than women. Conversely, women had a higher percentage of use of a motor vehicle without authority than did men.

Table 2 indicates that females were slightly underrepresented for larceny of a motor vehicle (25.81%) compared to males (32.71%) and higher for use of a motor vehicle without authority (74.19%) in relation to the males (67.29%).

Table 2: The Distribution of Sex by Offense

	Females	Males	Total
Larceny of a Motor Vehicle	25.81% (8)	32.71% (140)	32.24% (148)
Use of a Motor Vehicle Without Authority	74.19% (23)	67.29% (288)	67.76% (311)
Combined	100% (31)	100% (428)	100% (459)

Sentencing Patterns for Larceny of a Motor Vehicle
and Use of a Motor Vehicle Without Authority

The sentencing patterns for larceny of a motor vehicle and use of a motor vehicle without authority, examined in this section, were quite similar with only minor inconsistencies.

As indicated in Table 3 the percentages of defendants, for stolen car offenses, incarcerated and given probation were close at 24.84 percent and 20.92 percent respectively. A greater number (45.10%) were given suspended sentences and few (2.61%) were fined.

The Office of the Commissioner of Probation has analyzed the sentencing patterns of various other crimes, and research has found that 68% of convicted rapists, 25% of convicted arsonists and 14% of convicted vandals are incarcerated. The 25% incarceration rate for stolen car offenses is, therefore, consistent with the sentencing patterns in Massachusetts for other criminal offenses.

Larceny of a motor vehicle had a slightly higher (8.78%) representation among filed cases than did use of a motor vehicle without authority (5.47%). It is noteworthy, that of the 13 larceny of a motor vehicle cases filed 9 or 69.23 percent of those defendants were being incarcerated for a more serious simultaneous offense, of which, 7 were armed robbery, 1 was assault and battery with a dangerous weapon, and 1 was breaking and entering.

Since these simultaneous offenses carry more severe penalties, evidently in response to their impending threat of direct personal harm, the lesser crime against property, larceny of a motor vehicle, may have been held in abeyance for future consideration.

Table 3: Sentences of Use of a Motor Vehicle Without Authority
and Larceny of a Motor Vehicle Compared

	incarcerated	probation	suspended sentence	file	fine	total
use w/o authority	(77) 24.76%	(65) 20.90%	(144) 46.30%	(17) 5.47%	(8) 2.57%	(311) 100.00%
larceny of a motor vehicle	(37) 25.00%	(31) 20.95%	(63) 42.57%	(13) 8.78%	(4) 2.70%	(148) 100.00%
total						
stolen cars	(114) 24.84%	(96) 20.92%	(207) 45.10%	(30) 6.54%	(12) 2.61%	(459) 100.00%

(303)

66.01% supervised in the community

Age by Sentence Patterns

The following analysis of the sentence patterns of age groups in the total stolen car sample points to significant differences, especially regarding the eldest group (26+).

Table 4 indicates that a suspended sentence was the most frequently used sentence for any age group. Juveniles were overrepresented in probation at 29.41 percent compared to 20.92 percent for the overall sample. Juveniles had fewer filed cases (2.54%) and no fines (0%).

The sentence patterns for young adults revealed no significant differences from the overall sample, while adults showed the most significant deviations. Adults were incarcerated slightly more often (27.08%) than the total sample (24.84%) and they were supervised in the community (47.92%) much less often than the other age groups and the sample as a whole (66.01%). They had their cases filed more often (16.67%) than the whole (6.54%) and were fined more frequently (8.33%) than the total sample (2.61%).

Table 4: Age Groups by Sentencing Patterns

	8-16yrs	17-25yrs	26+yrs	total
incarc.	(28) 23.53%	(73) 25.00%	(13) 27.08%	(114) 24.84%
prob.	(35) 29.41%	(55) 18.84%	(6) 12.50%	(96) 20.92%
ss.	(53) 44.54%	(137) 46.92%	(17) 35.42%	(207) 45.10%
file	(3) 2.52%	(19) 6.51%	(8) 16.67%	(30) 6.54%
fine	(0) 0%	(8) 2.74%	(4) 8.33%	(12) 2.61%
total	(119) 100%	(292) 100%	(48) 100%	(459) 100%

Sentence Patterns by Sex

Table 5 seems to indicate varied sentencing patterns for males and females and this section discusses the relationship of variables influencing these findings.

Table 5 shows the incarceration rate to be less for women (9.68%) than for men (25.93%) and conversely, supervision in the community higher for women (83.87%) than for men (64.72%), with a great difference in probation (women, 45.16% and men, 19.16%). Also, women were fined more often than men, and had no cases filed.

It would be difficult to assess the significance of sex as a determinant in sentencing, considering the small number of females in the sample. With the available data, it would appear that women have been incarcerated less often than men, however, other variables may need to be taken into account.

The 31 women in the sample were responsible for proportionately more use of a motor vehicle without authority, which carries a lesser sentence than larceny of a motor vehicle. Females had a higher percentage of use of a motor vehicle without authority (74.19%) than males (67.29%) and a lower incidence of larceny of a motor vehicle (25.81%) than males (32.71%).

After obtaining a conviction, prior convictions may have an influence on the sentencing process. In this study, women had fewer prior convictions for stolen car offenses (12.90%) than men (30.72%).

Of the four women who did have prior stolen car convictions, only one was incarcerated. However, their ages, as another influential variable, (one 15 years, two 16, and one 17) may account for three receiving supervision in the community.

Whereas, a first offense of use of a motor vehicle without authority is a misdemeanor and women had a greater percentage of use of a motor vehicle without authority coupled with a low rate of prior stolen car convictions, this seems to explain the low rate of incarceration.

Table 5: Sentencing Patterns of Females and Males Compared

	incarcerated	probation	suspended sentences	supervision in the community*	file	fine	total
Females	(3) 9.68%	(14) 45.16%	(12) 38.71%	(26) 83.87%	(0) 0%	(2) 6.45%	(31) 100%
Males	(111) 25.93%	(82) 19.16%	(195) 45.56%	(277) 64.72%	(30) 7.01%	(10) 2.34%	(428) 100%
Entire Sample	(114) 24.84%	(96) 20.92%	(207) 45.10%	(303) 66.01%	(30) 6.54%	(12) 2.61%	(459) 100%

* supervision in the community is the total of probation and suspended sentences

Incidence of Prior Stolen Car Convictions

In this section prior stolen car convictions were examined to determine significant relationships to sentencing patterns. Use of a motor vehicle without authority, larceny of a motor vehicle, attempted larceny of a motor vehicle and a combination of the aforementioned were considered as prior stolen car convictions pertinent to this study.

Of the 459 defendants in the study, 145 or 31.59 percent had prior stolen car convictions. Use of a motor vehicle without authority comprised 61.38 percent of these, shown in Table 6, a combination of use of a motor vehicle without authority and larceny of a motor vehicle accounted for 20.69 percent, and larceny of a motor vehicle and attempted larceny of a motor vehicle were low at 9.66 percent and 8.28 percent respectively.

Table 6: Prior Stolen Car Convictions

	use w/o	lmv	att. lmv	multi	total
total	(89)	(14)	(12)	(30)	(145)
	61.38%	9.66%	8.28%	20.69%	100%

Key:

use w/o: Use of a Motor Vehicle Without Authority

lmv: Larceny of a Motor Vehicle

att. lmv: Attempted Larceny of a Motor Vehicle

multi: Multiple counts of stolen car offenses

Sentencing Patterns of Defendants with Prior Stolen Car Convictions

Comparing the sentencing patterns of defendants with prior convictions for stolen car offenses to those without revealed some significant differences.

Table 7 points to an incarceration rate which is double for defendants with prior stolen car convictions at 37.93 percent, while those without a prior stolen car conviction were incarcerated 18.79 percent of the time. Only one-half (50.34%) of those with a history of stolen car crimes were supervised in the community, whereas, almost three-fourths of those without prior stolen car convictions received supervision in the community (73.25%).

A slightly higher rate of filed cases occurred for those with prior stolen car convictions (9.66%) than for those without (5.10%). This may in part be a consequence of previous incarcerations running concurrently with court appearances for offenses under study in this report.

Subsequent to a finding of guilty, the type of sentence imposed may be related to certain discretionary issues, one of which being prior convictions. A significant pattern relative to the effect of prior convictions manifested itself in the findings of this study.

Inasmuch as the rate of incarceration was twice as high for those defendants with prior stolen car convictions, prior convictions were clearly a significant determining factor in sentencing decisions.

Table 7: Sentencing Patterns of Defendants with and without Prior Stolen Car Convictions

Without Prior Stolen Car Convictions		Sentences	With Prior Stolen Car Convictions		
(59)	18.79%	incarceration	(55)	37.93%	
(79)	25.16%	probation	(17)	11.72%	supervision in the community (73) 50.34%
(151)	48.09%	suspended sentences	(56)	38.62%	
(16)	5.10%	file	(14)	9.66%	
(9)	2.87%	fine	(3)	2.07%	
(314)	100%	total	(145)	100%	

supervision in the community (230) 73.25%

Larceny of a Motor Vehicle

According to the Massachusetts General Laws Chapter 266, Section 28 (amended St. 1972), the penalty for larceny of a motor vehicle is:

imprisonment in the state prison for not more than ten years or by imprisonment in a jail or house of correction for not more than two and one-half years or by a fine of not more than five thousand dollars, or both.

According to the data in Table 3, 25 percent of the persons in the larceny of a motor vehicle sample were sentenced to a state or county correctional facility.

Data in Table 8 shows the length of sentences for incarcerated people. The average sentence for those incarcerated for larceny of a motor vehicle was 14.62 months, with the terms ranging from less than 6 months to 5 years. While the Massachusetts General Laws recommends a maximum penalty of 10 years in a state prison, no one in this sample was given the maximum sentence.

Among those incarcerated for larceny of a motor vehicle, 62.16 percent received a sentence of two years or less, while 8 percent were sentenced for more than two years. The balance (29.73%) were given indeterminate sentences... a sentence which largely relates to juveniles committed to the Department of Youth Services.

Use of a Motor Vehicle Without Authority

For the first offense of use of a motor vehicle without authority the Massachusetts General Laws Chapter 90, Section 24 states that:

whoever uses a motor vehicle without authority knowing that such use is unauthorized shall, be punished by a fine of not less than fifty dollars nor more than five hundred dollars or by imprisonment for not less than thirty days not more than two years, or both...

and for a second offense, which is a felony:

...imprisonment in the state prison for not more than five years or in a house of correction for not less than thirty days nor more than two and one-half years, or by a fine of not more than one thousand dollars, or by both such fine and imprisonment.

Inasmuch as the statute calls for lesser penalties for the crime of use of a motor vehicle without authority, one would expect the length of sentences for incarcerated offenders convicted of use of a motor vehicle without authority to be shorter than for those convicted for larceny of a motor vehicle. This study bears out this premise.

The average term of persons sentenced to incarceration for use of a motor vehicle without authority was 7.37 months, which is about one-half as long as those sentenced to incarceration for larceny of a motor vehicle. The statute suggests a range of thirty days to five years (for second offenders), and the range in this study was from 1 month to 2 years. None of those people convicted for use of a motor vehicle without authority received the maximum penalty of 5 years in a state prison.

Table 8: Lengths of Sentences for Incarcerated Offenders by Offense

	Larceny of a Motor Vehicle	Use of a Motor Vehicle Without Authority	Combined
1-6 mo.	(10) 27.03%	(39) 50.65%	(49) 42.98%
7-12 mo.	(8) 21.62%	(14) 18.18%	(22) 19.30%
13-24 mo.	(5) 13.51%	(6) 7.79%	(11) 9.65%
25-36 mo.	(1) 2.70%	(0) 0%	(1) .88%
60 mo.	(2) 5.41%	(0) 0%	(2) 1.75%
indeter- minate	(11) 29.73%	(18) 23.38%	(29) 25.44%
total in- carcerated	(37) 100%	(77) 100%	(114) 100%
.....
Average * Length of Sentences	average length 14.62 mo.	7.37 mo.	9.59 mo.

* averages do not include indeterminate sentences.

Table 9: Sentences for Stolen Car Offenses according to the Massachusetts General Laws.

	State Prison	House of Correction or Jail	Fine			
Larceny of a Motor Vehicle	not more than 10 yrs.	or	not more than 2 1/2 yrs.	or	not more than \$5000	or by both imprisonment and fine
Use of a Motor Vehicle Without Authority			not less than 30 days nor more than 2 1/2 yrs.	or	not less than \$50 nor more than \$500	or both
1st Offense						
2nd Offense	not more than 5 yrs.	or	not less than 30 days nor more than 2 1/2 yrs.	or	not more than \$1000	or by both imprisonment and fine

Sentencing Patterns by Simultaneous Offense

In this section, the relationship between simultaneous offenses and sentencing patterns was examined.

The analysis of sentencing patterns for larceny of a motor vehicle and use of a motor vehicle without authority convictions with other simultaneous charges indicate that defendants with simultaneous offenses receive harsher penalties than those with only a stolen car offense.

All offenses simultaneous with the stolen car offenses were considered here for their relationship to the sentencing patterns of the stolen car offenses in the study. In addition, possession of burglary tools and breaking and entering were singled out because they had both the highest frequencies of all simultaneous offenses, and they appeared to be most closely related to the study of stolen cars.

Furthermore, possession of burglary tools may point to more serious intent, through its suggestion of pre-meditation.

As indicated in Table 10, the incarceration rate was the highest (34.92%) for those defendants who had a charge of possession of burglary tools simultaneous with a stolen car offense. Also, the rate of supervision in the community, (a combination of probation and suspended sentences) was lower for those with a simultaneous possession of burglary tools (60.32%) than for those without an offense simultaneous with their stolen car conviction. There were fewer cases filed (1.59%) and more cases fined (3.17%) for defendants with a simultaneous possession of burglary tools than for those with no simultaneous offenses at 3.69 percent and 2.46 percent respectively.

The rate of incarceration for defendants with simultaneous offenses in general was higher than for those with only stolen car convictions, whereas, the reverse was true for the rates of supervision in the community, as illustrated in Table 10.

Two misleading figures, however, deserve note. The rate of cases filed for defendants with simultaneous offenses in general and for those with a simultaneous breaking and entering were higher than for stolen car convictions with no simultaneous offenses. This can be clarified by the fact that breaking and entering, along with other of the simultaneous offenses in this study, such as armed robbery and assault and battery, are more serious than the stolen car offenses, and therefore, prompt more severe sentences. In this case a lesser offense, that is, a stolen car offense, may be filed for consideration at a later date.

The data in Table 10 thus indicates a higher incarceration rate for people with offenses simultaneous with the stolen car offenses under study.

Table 10: Sentencing Patterns for Defendants with and without Offenses Simultaneous with Stolen Car Offenses.

	Incarc.	Prob.	Suspend. Sentences	File	Fine	Total
No Simultaneous Offenses	(52) 21.31%	(60) 24.59%	(117) 47.95%	(9) 3.69%	(6) 2.46%	(244) 100%
All Cases with Simultaneous Offenses	(62) 28.84%	(37) 17.21%	(89) 41.40%	(21) 9.77%	(6) 2.79%	(215) 100%
Simultaneous Possession of Burglarious Tools	(22) 34.92%	(12) 19.05%	(26) 41.27%	(1) 1.59%	(2) 3.17%	(63) 100%
Simultaneous Breaking and Entering	(15) 28.30%	(13) 24.53%	(19) 35.85%	(5) 9.43%	(1) 1.89%	(53) 100%

Table 11: Simultaneous Offenses in descending order of frequency.*

Offense	Counts
Possession of Burglary Tools	66
Breaking and Entering in the Night	29
Receiving Stolen Goods	24
Armed Robbery	17
Larceny	16
Breaking and Entering and Larceny	15
Malicious Destruction of Property	15
Larceny Over \$100	15
Leaving the Scene of Property Damage (motor vehicle offense)	12
Breaking and Entering	11
Assault with a Dangerous Weapon	10
Assault and Battery with a Dangerous Weapon	9
Driving to Endanger	8
Breaking and Entering in the Day	7
Assault and Battery	5
Driving after Suspension or Revocation of License	4
Destruction of Property	4
Larceny Less \$100	4
Manslaughter	4
Driving without Compulsary Insurance	4
Disturbing the Peace	3
Assault with Intent to Kill	3
Larceny in a Building	3
Burglary	2
Driving under the Influence of Liquor	2
Forgery and Uttering	2
Threats	2
Arson	2
Assaulting an Officer	2
Kidnapping	2
Larceny from Person	2
Unarmed Robbery	2
Extortion	1
Altering Driver's License or Vehicle Registration	1
Violation of Town By-laws	1
Robbery	1
Carrying a Firearm without a Permit	1
Trespassing	1

* These numbers do not reflect individual defendants, as do the statistics throughout the rest of the study; they refer to the number of counts of each simultaneous offense appearing in the study.

IV. Summary

This study analyzed the sentencing patterns in Massachusetts for people convicted of stolen car crimes. Variables including defendants' age, sex, prior record, and simultaneous offenses were examined for 459 people convicted of larceny of a motor vehicle and use of a motor vehicle without authority between 1974 and 1978.

Distribution

The distribution of the two offenses showed that use of a motor vehicle without authority represented (311) 67.76 percent of the sample and larceny of a motor vehicle (148) 32.24 percent.

Juveniles (8-16 yrs.) accounted for more than 25 percent of the sample, young adults (17-25 yrs.) comprised nearly 64 percent and older adults (26+) over 10 percent.

The majority of stolen car defendants were males at more than 93 percent.

Sentencing

Sentencing patterns for larceny of a motor vehicle and use of a motor vehicle without authority were very similar. Almost one-quarter of the stolen car convictions resulted in incarceration, while nearly as many (21%) received probation and over 45 percent were given a suspended sentence.

Juveniles were more likely to receive probation, while young adults had a lower rate of supervision in the community. Although older adults had a higher rate of incarceration, they also had a high incidence of filed cases.

Almost one-third of the defendants had a prior record of convictions for stolen car offenses and of those, almost two-thirds were for use of a motor vehicle without authority. The rate of incarceration for those defendants with prior stolen car convictions was double the rate for those with no prior stolen car offenses.

The average sentence length for people incarcerated for larceny of a motor vehicle convictions was over 14 months and for use of a motor vehicle without authority was more than 7 months. The terms ranged from less than 6 months to 5 years for larceny of a motor vehicle and from 1 month to 2 years for use of a motor vehicle without authority incarcerations.

The analysis of sentencing patterns according to offenses simultaneous with the stolen car convictions of the study, indicated that the incarceration rate was higher for defendants responsible for simultaneous offenses (29%), and in particular, simultaneous possession of burglary tools (35%).

